



APPLICATION ACCEPTED: November 14, 2012

DATE OF PUBLIC HEARING: February 6, 2013

TIME: 9:00 a.m.

# County of Fairfax, Virginia

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January 30, 2013

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-BR-078

### BRADDOCK DISTRICT

**APPLICANT/OWNER:** Pamela M. Brouder

**LOCATION:** 10514 Indigo Lane, Fairfax, 22032

**SUBDIVISION:** Bonnie Brae

**TAX MAP:** 68-4 ((07)) 22A

**LOT SIZE:** 12,521 square feet

**ZONING:** R-2 Cluster

**ZONING ORDINANCE PROVISION:** 8-914, 8-922

**SPECIAL PERMIT PROPOSAL:** To permit reduction of minimum yard requirements based on error in building location to permit addition to remain 13.2 ft. from rear lot line and to permit reduction of certain yard requirements to permit construction of an addition 13.8 ft. from rear lot line.

**Recommendation:** Staff recommends approval of SP 2012-BR-078 for the addition with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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Rebecca Homer

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

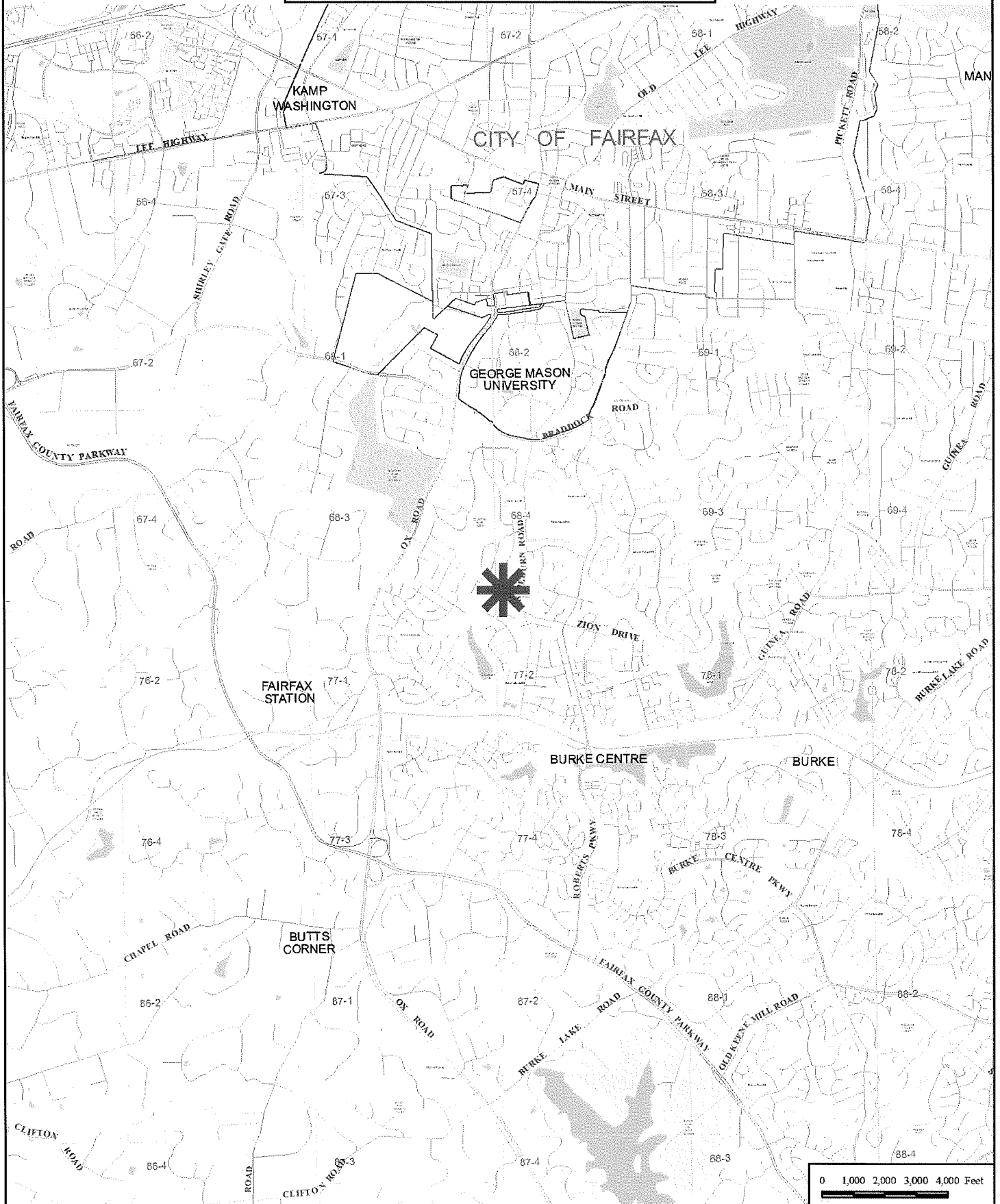


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

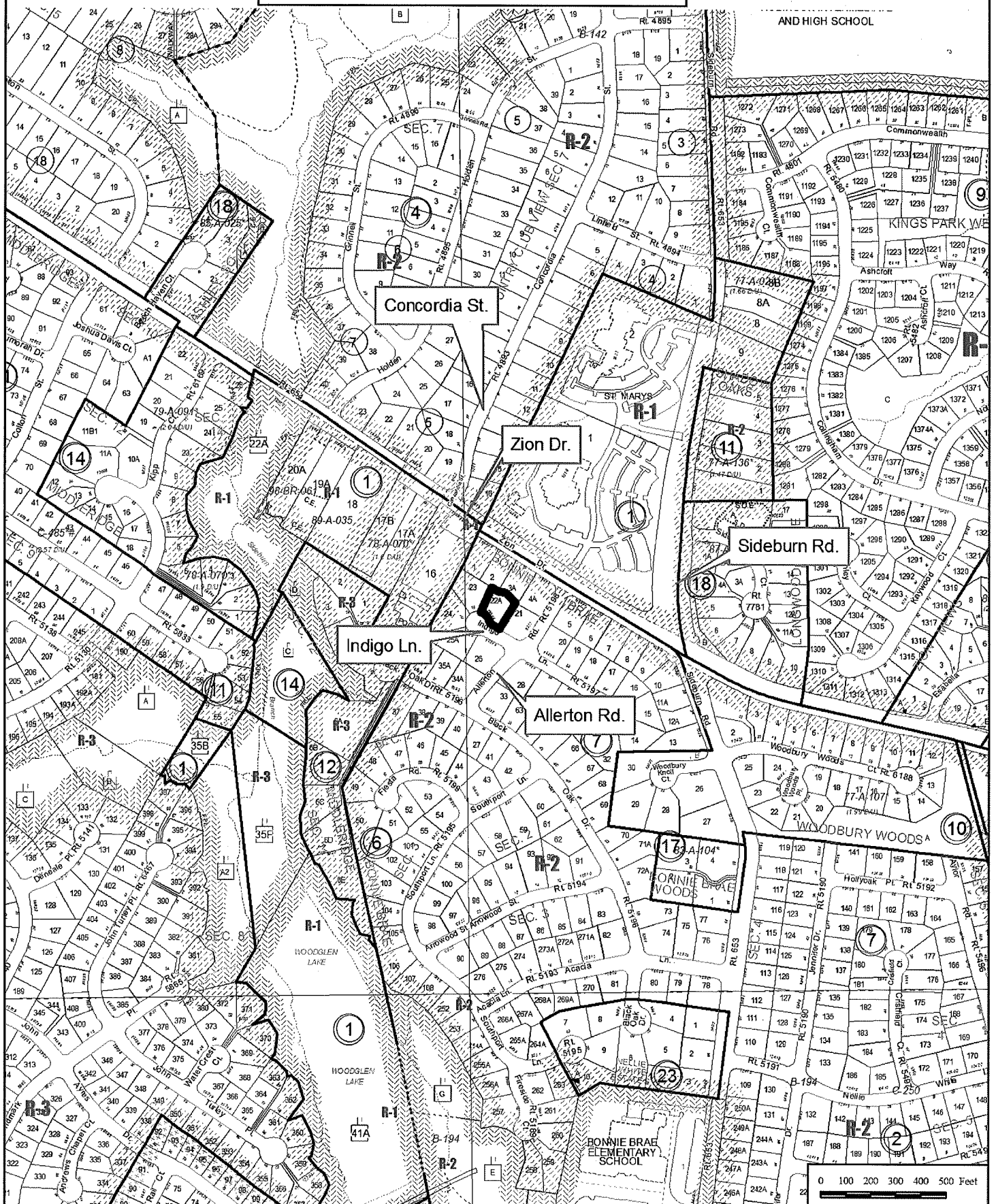
# Special Permit

SP 2012-BR-078

PAMELA M BROUDER



**Special Permit**  
**SP 2012-BR-078**  
**PAMELA M BROUDER**



## LEGEND

- BRL = BUILDING RESTRICTION LINE  
CHIM = CHIMNEY  
D/W = DRIVEWAY  
O/H = OVERHANG  
W.M. = WATER METER

FRONT= 25'  
SIDE= 8', BUT A TOTAL MINIMUM OF 24'  
REAR= 25'

- OWNERS

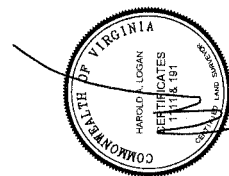
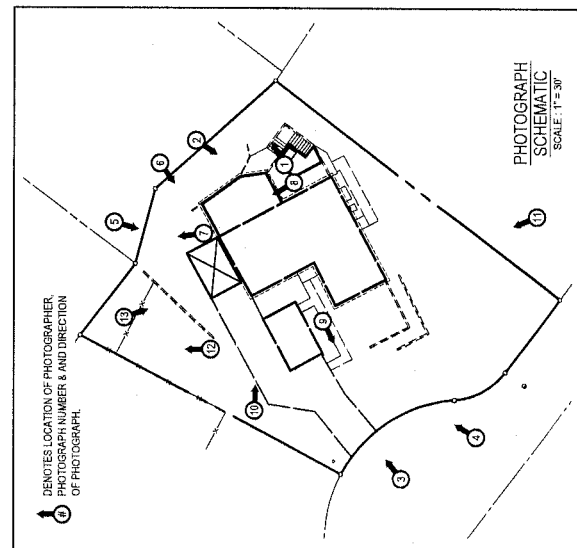
F.A.R.  
EX. G.F.A. = 2,800 / 12,521 = 0.223  
PROP. G.F.A. = 3,241 / 12,521 = 0.259

LOT 22-A  
SECTION ONE  
BONNIE BRAE

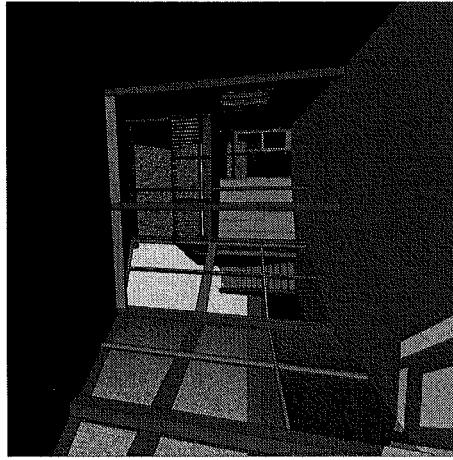
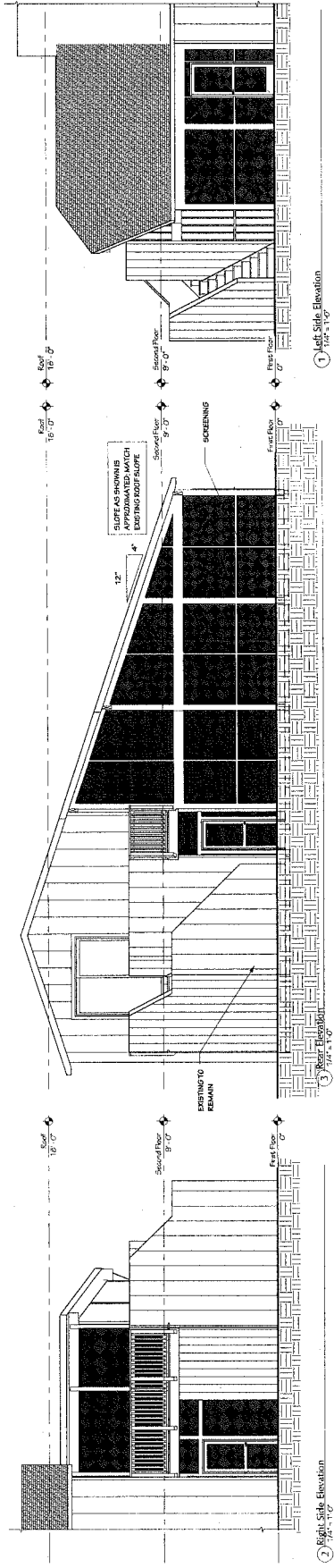
BRADDOCK DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1"= 30'  
DATE: 07-03-2012  
REV. 08-14-2012  
REV. 12-12-2012

**HAROLD A. LOGAN ASSOCIATES P.C.**  
LAND AND SURVEYING - SITE PLANNING - SUBDIVISION DESIGN  
8114 INDUSTRY DRIVE  
MANASSAS PARK, VA. 20111 (703) 330-1988 FAX 690-8132

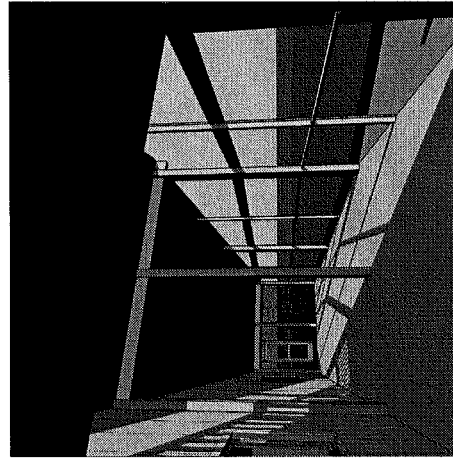
SHEET  
1 OF 1  
RP 2568



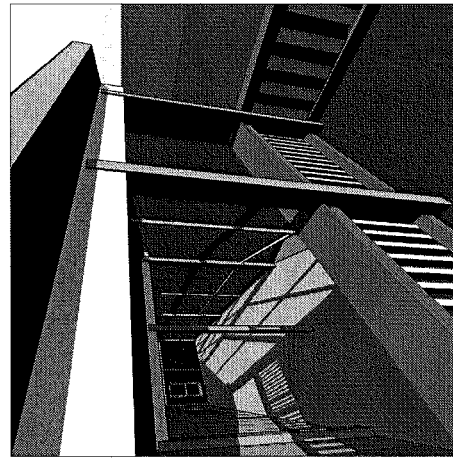




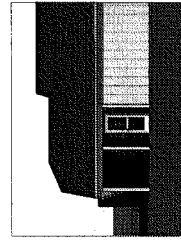
11 Perspective 3



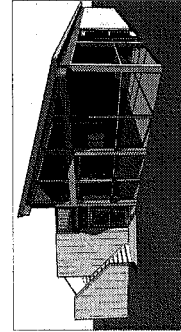
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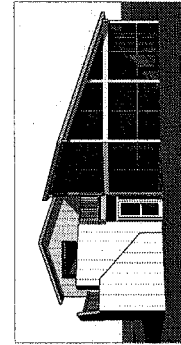
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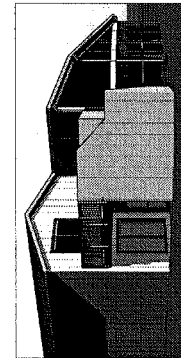
8. Perspective 8



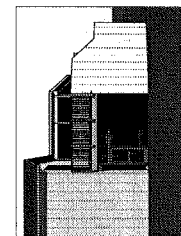
#### ④ Perspective 7



**6 Perspective 6**



5 Perspective 5



## 7 Perspective 4

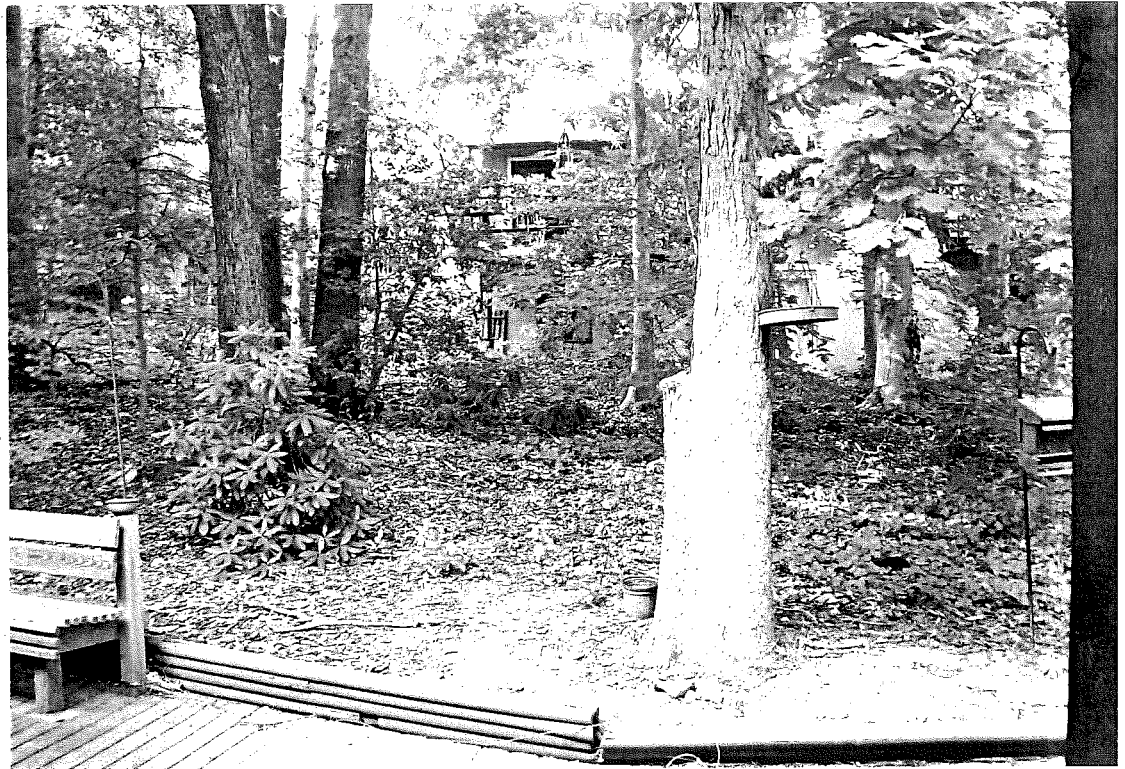




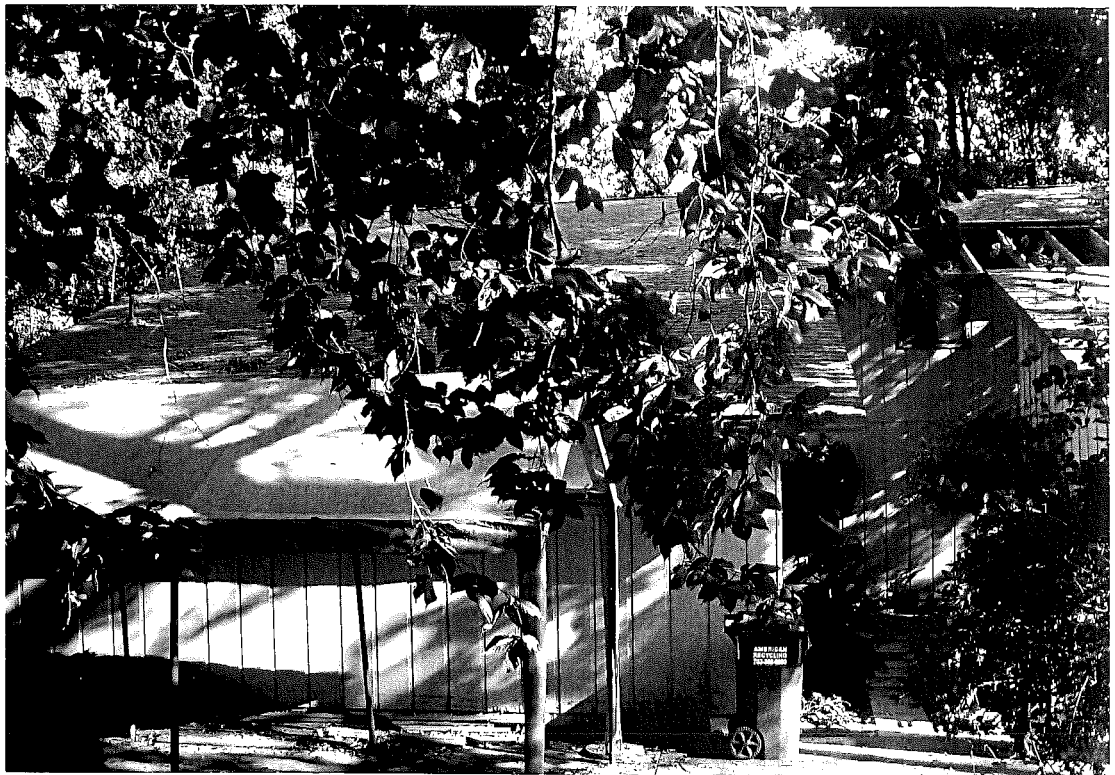


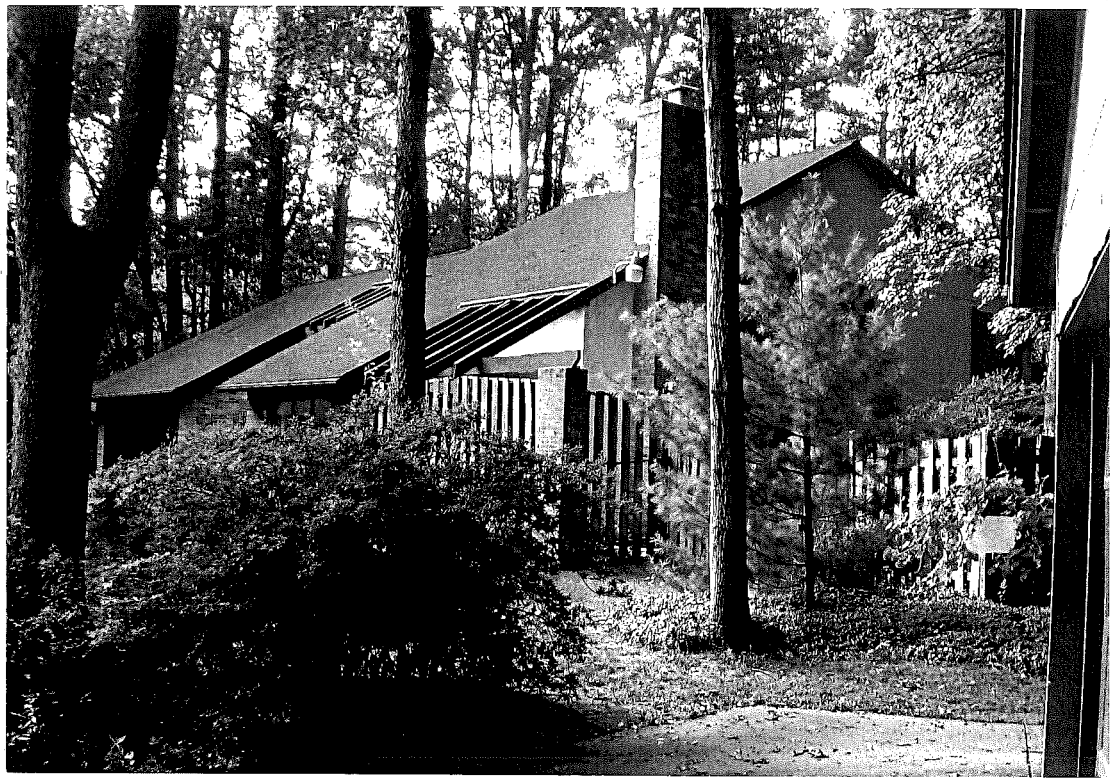


















**DESCRIPTION OF THE APPLICATION**

The applicant is requesting approval of two special permit requests. The first is to permit reduction of minimum yard requirements based on error in building location to permit an addition, a two-level deck with the first level enclosed, to remain 13.2 ft. from the rear lot line.

<b>Special Permit</b>	<b>Structure</b>	<b>Yard</b>	<b>Min. Yard Req.*</b>	<b>Structure Location</b>	<b>Amount of Error</b>	<b>Percent of Error</b>
<b>Request #1</b>	<b>Addition</b>	Rear	25 feet	13.2 feet	11.8 feet	47.2%

The second special permit request is for a reduction of certain yard requirements to permit construction of an addition, a screen porch addition over a portion of an existing open deck, 13.8 ft. from the rear lot line. Elevation drawings are included at the front of the staff report.

<b>Request #2</b>	<b>Addition</b>	Rear	25 feet	13.8 feet	11.2 feet	44.8%
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\*Minimum Yard Requirement per Section 3-207.

**LOCATION AND CHARACTER OF THE AREA****Character of the Area**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R2	Single Family Detached Dwellings
<b>South</b>	R2	Single Family Detached Dwellings
<b>East</b>	R2	Single Family Detached Dwellings
<b>West</b>	R2	Single Family Detached Dwellings

**Existing Site Description**

The 12,521 square foot lot is zoned R-2 and developed under the cluster regulations. An existing two-story single family detached dwelling was constructed in 1973.

According to the special permit plat, the existing gross floor area of the dwelling is 2,800 square feet.

The dwelling includes an attached multi-level deck, a portion of which is enclosed. The enclosure appears to be a mechanical room for an associated hot tub. An accessory structure, an open tent, is located within a portion of the rear yard northwest of the dwelling.

The lot is level and contains several mature trees and shrubs. The site is accessed via a hard surfaced driveway from Indigo Lane.

## BACKGROUND

The applicant constructed the attached multi-level deck with stairs in 2002, which was approved by a building permit. The permit included a hot tub. It is unclear whether or not the multi-level deck with hot tub included the enclosure, as it is constructed today. The building permit did not appear to consider that possibility because a permit reviewer wrote "open deck" on the permit approval. Once enclosed, that portion of the deck is considered an addition and part of the primary dwelling; therefore the deck no longer qualifies as a permitted extension.

Staff does not know when the tent structure was erected or have any records pertaining to the structure. Staff requested the applicant amend the plat to show the height and setback, however, staff did not receive a new plat. Based on the scale of the drawing, it appears the tent is setback from the rear property line approximately 16 feet. It also appears that the tent is less than 16 feet in height to the peak; however, staff is unable to verify whether or not the structure is compliant with the Zoning Ordinance without the height and setback shown on a plat stamped by a land surveyor.

A copy of the special permit plat titled "Special Permit, Lot 22-A, Section 1, Bonnie Brae" prepared by Harold A. Logan, Associates P.C., dated July 3, 2012, as revised through December 28, 2012, signed by Harold A. Logan, Land Surveyor, is included at the front of the staff report.

Following the adoption of the current Ordinance, the BZA has heard the following request in the vicinity of the application parcel:

- Variance (VC) 85-A-065 was approved on October 8, 1985 for Tax Map 68-4 ((06)) (03) 69, zoned R-2, at 10018 Whitefield Street, to permit enclosure of existing patio 6.6 feet from side lot line.
- Variance (VC) 86-A-101 was denied on January 14, 1987 for Tax Map 68-4 ((06)) (09) 49, zoned R-2, at 10013 East Constable Court, to permit enclosure of existing carport 3.2 feet from side lot line.
- Variance (VC) 89-A-091 was approved October 26, 1989 for Tax Map 68-4 ((06)) (08) 87, zoned R-2, at 5204 Faraday Court, to allow construction of sunroom

addition dwelling 12.8 feet from rear lot line and stairway/ramp to 11.5 feet from rear lot line.

- Variance (VC) 97-B-067 was approved October 15, 1997, for Tax Map 68-4 ((06)) (08) 41, zoned R-2, at 10022 Eastlake Drive, to permit construction of addition 5.0 feet from side lot line.
- Variance (VC) 2002-BR-175 was approved January 15, 2003, for Tax Map 68-4 ((06)) (02) 62, zoned R-2, at 5116 Lavery Court, to permit construction of addition 6.5 feet from side lot line.

## **ZONING ORDINANCE REQUIREMENTS (See Appendix 4)**

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

### **Sect. 8-006 General Special Permit Standards**

Staff believes that the application meets all of the 8 General Special Permit Standards with notes regarding General Standards 3.

*General Standard 3* requires that the proposed uses be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *The general character of the residential neighborhood is similar; two-story homes, with wood siding. The applicant indicates with the elevations that the proposed addition will be built to match the existing home.*

### **Sect. 8-922 Provisions for Reduction of Certain Yard Requirements**

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 5 relates to existing accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. *Staff believes that the application has met all of the remaining standards, specifically Standards 4, 6, 7, 8, and 9.*

*Standard 4* states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. *According to the stamped drawings provided by the surveyor, the existing dwelling has 2,800 square feet of living area. Therefore 150% of*

*the total gross floor area could result in an addition up to 4,200 square feet square feet in size for a possible total building size of 7,000 square feet above-grade living area. The proposed addition is approximately 441 square feet in area, thereby realizing a total house size of 3,241 square feet. Therefore the application meets this provision.*

*Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The applicant has provided architectural elevations for the proposed addition which indicated the addition to be built to match the existing dwelling. The addition will be at the rear of the dwelling and not visible from the street. The location of the screened porch is in a location of an existing open deck. The height of the proposed addition is in character with the existing dwelling. The proposed addition appears to blend in with the bulk of the existing structure. Staff believes this standard has been met.*

*Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. The proposed addition is in the location of the existing open deck. No additional impervious surface will be added. No trees or vegetation will be removed. The request is harmonious with surrounding uses because the addition will enclose the existing open deck. The bulk and scale is harmonious with the existing dwelling and surrounding properties because the area and height of the dwelling will not increase. Staff believes this standard has been met.*

*Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and storm water runoff. The carport enclosure will not adversely impact the adjacent properties. It will allow the applicant to enclose storage that is presently visible to neighbors and will enhance the appearance of the property. The proposed addition will not encroach into an RPA or storm water easement. Because the addition is on the footprint of the existing open deck, no new impervious area is proposed. Staff believes this standard is met.*

*Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. The addition is on the footprint of the existing open deck. There is no proposed impact to topography or vegetation. Staff believes this is the most logical location for the screened porch addition and this standard has been met.*

**CONCLUSION**

Staff finds that the subject application is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

**APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2012-BR-078****January 30, 2013**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-BR-078 located at 10514 Indigo Lane, Tax Map 68-4 ((07)) 22A to permit reduction of certain yard requirements pursuant to Section 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved only for the location of the existing enclosed deck addition and the proposed screened porch addition (approximately 441 square feet), as shown on the plat prepared by Harold A. Logan Associates, P.C., dated July 3, 2012, as revised through December 28, 2012, signed by Harold A. Logan, Land Surveyor, submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,800 square feet existing + 4,200 square feet (150%) = 7,000 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall generally be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
5. All accessory structures shall be subject to the use limitations of Sect. 10-103 and 10-104 of the Zoning Ordinance.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

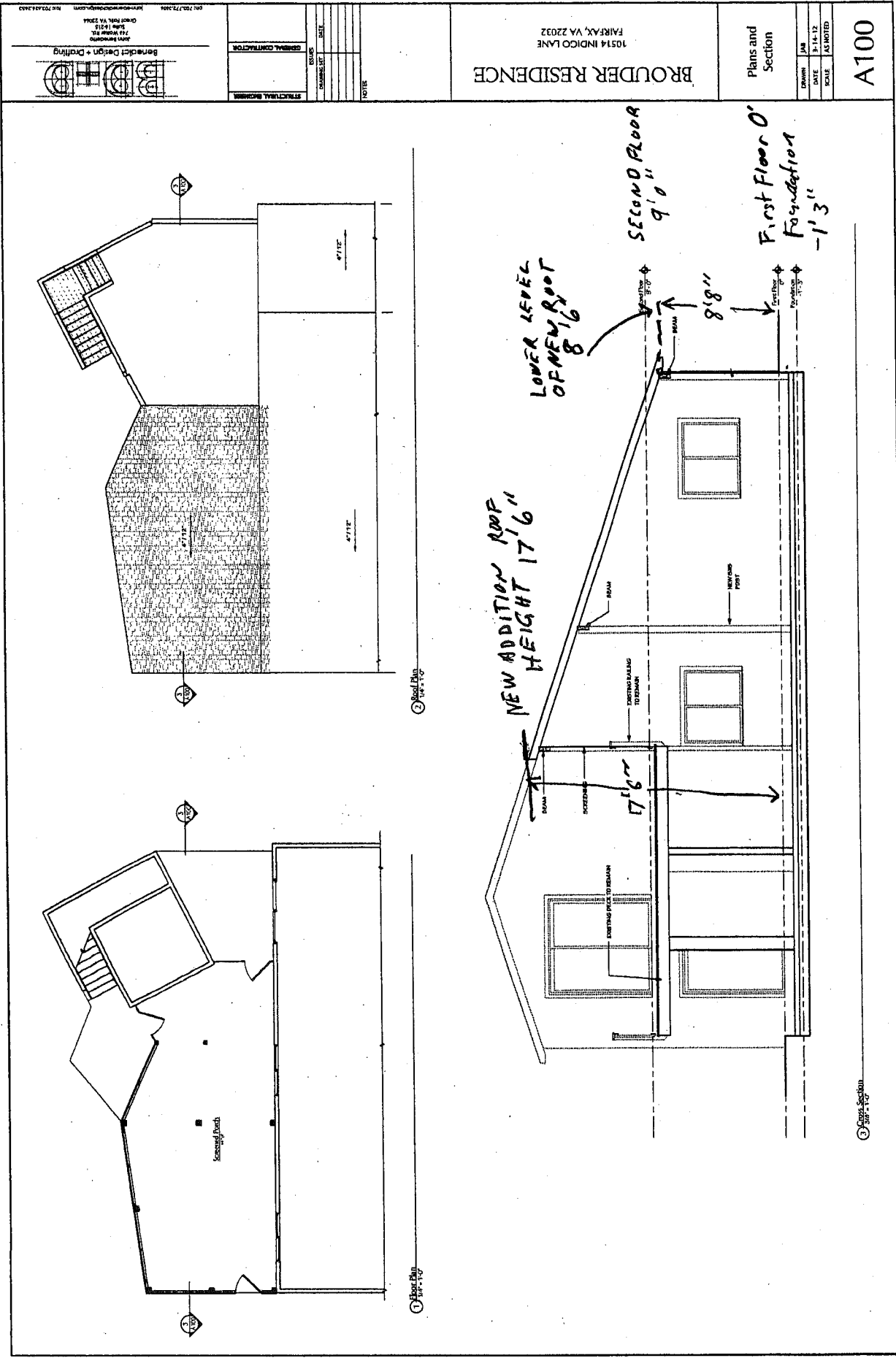
Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.











Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

### SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 25, 2012  
(enter date affidavit is notarized)

I, Pamela M Brouder, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one) ☒ applicant  
☐ applicant's authorized agent listed in Par. 1(a) below

117036

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE:** All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
Pamela M Brouder	10514 Indigo Lane Fairfax VA 22032	Applicant/Title owner

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 25, 2012  
(enter date affidavit is notarized)

117036

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)**

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

N/A

**DESCRIPTION OF CORPORATION:** (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 25, 2012  
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1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. **General Partner**, **Limited Partner**, or **General and Limited Partner**)

N/A

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 25, 2012  
(enter date affidavit is notarized)

117036

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**DATE: June 25, 2012  
(enter date affidavit is notarized)

117036

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)**

None

**(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

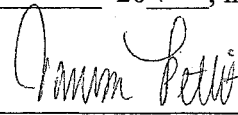
WITNESS the following signature:

(check one)

☒ Applicant☐ Applicant's Authorized Agent

Pamela M. Brouder  
(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 25<sup>th</sup> day of June, 2012, in the State/Comm. of Virginia, County/City of Fairfax.



Notary Public

My commission expires: January 31, 2016

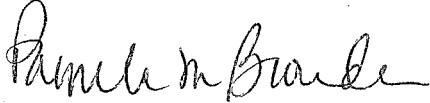
Vanessa Potter  
Notary Public 347210  
Commonwealth of Virginia  
My Commission Expires 01/31/2016



**Statement of Justification**  
**Special Permit application**

Pamela M. Brouder  
10514 Indigo Lane  
Fairfax, VA 22032  
H: (703)503-7358  
C: (703)861-7910  
July 10, 2012

This statement represents the justification in applying for a special permit for the above referenced property. It is my desire to screen in my existing deck. The project does not extend beyond the existing structure in height or depth. It is for private use only; not to be used in any way by the public. The existing structure is behind the house and is not visible from the street. There is no environmental impact on this project. I am applying for this special permit under the provision for Reduction of Certain Yard Requirements.



Pamela M. Brouder

RECEIVED  
Department of Planning & Zoning  
JUL 10 2012  
Zoning Evaluation Division

## **8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

### **8-903 Standards For All Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914

**Provisions for Approval of Reduction to the Minimum Yard Requirements  
Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 1/2" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of well and/or septic field.
  - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

### **8-922 Provisions for Reduction of Certain Yard Requirements**

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
  - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
  - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
  - C. Accessory structure location requirements set forth in Sect. 10-104.
  - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.
5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 1/2" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
  - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of a well and/or septic field.
  - I. Existing and proposed gross floor area and floor area ratio.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.



- K. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.